

**THE HONOURABLE SRI JUSTICE N.V.RAMANA**

**Writ Petition No.5797 of 2002**

**Dated:16<sup>th</sup> March, 2006**

**Between:**

Banoth Mangilal.

**.....PETITIONER**

**AND**

The Singareni Collieries Company  
Limited, rep by its General Manager  
(p) Manuguru, Khammam District  
& 2 others.

**....RESPONDENTS**

**THE HONOURABLE SRI JUSTICE  
N.V.RAMANA**

**W.P.No.5797 of 2002**

**ORDER:**

This writ petition is filed questioning the action of the respondents in not providing employment to the petitioner as per Circular Ref. No. P40/5911/IR/335, dated 10.03.2000, issued by the Director (P, A & W), Singareni Collieries Company Limited, in pursuance of Memo of Settlement, dated 21.02.2000, providing for re-appointment in the company, to persons who were dismissed from service on the ground of absenteeism during the period between 01.01.1997 and 31.12.1999.

The petitioner while working with the respondent as Badili Coal Filler, was removed from service vide orders dated 30.12.1998 on the ground of absenteeism. The petitioner states that pursuant to a Memorandum of Settlement, dated 21.02.2000, the Director (P, A & W), Singareni Collieries Company Limited, issued a Circular in Ref No. P40/5911/IR/335, dated 10.03.2000, providing for re-appointment in the company, to the persons, who were dismissed from service on the ground of absenteeism during the period between 01.01.1997 and 31.12.1999. Accordingly, in pursuance of the said circular, the petitioner desirous of availing the opportunity, submitted his application for re-appointment. The petitioner states that he was called for interview, wherein the petitioner explained the reasons for his absence. He submits that though he was assured by the respondents that his case would be considered favourably, till date he has not been re-appointed, while the cases of similarly placed employees, namely Sri. Vankodth Kishan and Sri. Banoth Chandulal, were favourably considered, and they were even re-appointed as Badili Coal Filler. The petitioner submits that the action of the respondents in not

considering his case, while considering the cases of similarly placed employees favourably and re-appointing, is discriminatory and violative of Article 14 of the Constitution. He thus prayed for appropriate directions.

Learned counsel for the respondents submitted that the petitioner has not put in 190 musters in any calendar year of service as required by a dismissed employee, and it is for this reason, his case was not recommended for re-appointment as Badli Coal Filler, while the other two persons, who the petitioner contends were re-appointed, had put in more than 190 musters in two years and seven years, and as the said persons were dismissed from service, in between 1-1-1997 to 31-12-1999, their cases were considered favourably. It is admitted in the counter affidavit that two other persons who were reappointed do not have the required 190 musters in one calendar year, however they were re-appointed having regard to the directions of the National Commission for Scheduled Castes and Scheduled Tribes. It is stated that as the case of the petitioner was not recommended by the National Commission for Scheduled Castes and Scheduled Tribes, the respondents did not consider his case.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the material available on record.

The petitioner, admittedly, was dismissed from service vide orders dated 30.12.1998 on the ground of absenteeism. While so, in pursuance of a Memo of Settlement, dated 21.02.2000, the Director (P, A & W), Singareni Collieries Company Limited, has issued a Circular Ref No. P40/5911/IR/335, dated 10.03.2000, providing for re-appointment of those employees who were dismissed from service on the ground of absenteeism during the period from 01.01.1997 to 31.12.1999. The petitioner was dismissed from service on 30.12.1998, which admittedly is during the period from 01.01.1997 to 31.12.1999, and as such, he is entitled to be considered for re-appointment. The petitioner, admittedly, submitted his application. The respondents even called him for interview, but did not appoint him. Though the respondents contend that the petitioner has not completed 190 musters in a year, and therefore, his case was not considered, the fact remains, the respondents have considered cases of similarly placed

employees, namely Sri. Vankodth Kishan and Sri. Banoth Chandulal, even though they had not completed 190 musters in a calender year. Though the respondents contend that the petitioner is junior to the persons who were re-appointed, the fact remains, the Circular, does not distinguish between a junior and senior. What all the circular states is that those employees who were dismissed from service on the ground of absenteeism during the period from 01.01.1997 to 31.12.1999, would be entitled to apply for consideration of their cases for re-appointment. May be, in pursuance of the directions of the National Commission for Scheduled Castes and Scheduled Tribes, the cases of other similarly placed employees, referred to above, was considered favourably, but merely because the name of the petitioner, was not recommended, it does not mean that the petitioner is not entitled for re-appointment, and more so when the petitioner has proved himself to be eligible to be considered in terms of the Circular, issued by the respondents themselves. The reasons stated by the respondent in the counter are not valid grounds to deny re-appointment to the petitioner in terms of the circular.

In view of the above, the writ petition is allowed. The respondents are directed to consider the case of the petitioner for re-appointment as Badili Coal Filler, in terms of the Circular and in the light of the observations made above. No costs.

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**(N.V. RAMANA, J.)**

**Date:16<sup>th</sup> March 2006.**

GRK